

EXHIBIT B

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF HAWAII

3
4 WAYNE BERRY,

5 Plaintiff,

6 vs.

7 FLEMING COMPANIES, INC.,)
aka FLEMING FOODS, INC.,)
8 aka FLEMING, DOE)
INDIVIDUALS 1-50 and)
9 DOE PARTNERSHIPS,)
CORPORATIONS and OTHER)
10 ENTITIES 1-20,)

11 Defendants.)
12

CIVIL NO. 01-00446SPK-LEK

13 TRANSCRIPT OF PROCEEDINGS

14
15 The above-entitled matter came on for Further
16 Jury Trial commencing at 9:20 a.m. on Friday, February
17 28, 2003, Honolulu, Hawaii,

18
19 BEFORE: HONORABLE SAMUEL P. KING

20 United States District Judge

21 District of Hawaii
22

23
24 REPORTED BY: LISA J. GROULX, COURT REPORTER

25 Notary Public, State of Hawaii

A P P E A R A N C E S

FOR PLAINTIFF: TIMOTHY J. HOGAN, ESQ.
WESLEY W. ICHIDA, ESQ.
LYNCH ICHIDA THOMPSON KIM & HIROTA
1132 Bishop Street, Suite 1405
Honolulu, Hawaii 96813
(808) 528-0100

FOR DEFENDANTS: LEX R. SMITH, ESQ.
ANN TERANISHI, ESQ.
Kobayashi, Sugita & Goda
First Hawaiian Center
999 Bishop Street, Suite 2600
Honolulu, Hawaii 96813
(808) 539-8700

ALSO PRESENT: Ralph Stussi

1 THE COURT: You're through for this
2 morning.

3 THE WITNESS: Okay. Yes.

4 (Witness excused.)

5 THE COURT: Okay. Recess.

6 (Recess taken 11:20 - 11:35 a.m.)

7 THE COURT: Note the presence of the
8 jury.

9 Please be seated. Swear the witness.

10 RALPH STUSSI

11 was called as a witness by the plaintiff, after having
12 been sworn to tell the truth, the whole truth and
13 nothing but the truth, was examined and testified as
14 follows:

15 THE CLERK: Please be seated. State
16 your name for the record and spell your last name,
17 please.

18 THE WITNESS: Ralph Stussi, S-t-u-s-s-i.

19 DIRECT EXAMINATION

20 BY MR. HOGAN:

21 Q. Good morning, Mr. Stussi. I guess it's still
22 morning.

23 Would you state where are you presently
24 employed, sir?

25 A. For Fleming Companies, Inc.

1 Q. And you are not presently the Hawaii division
2 president, are you, sir?

3 A. No, sir.

4 Q. And were you ever the Hawaii division
5 president?

6 A. Yes, I was.

7 Q. When did you cease being the Hawaii division
8 president?

9 A. April of 2002.

10 Q. And where do you presently work, sir?

11 A. I'm at the Garland, Texas division as the
12 division president.

13 Q. Now are you a certified public accountant,
14 sir?

15 A. Yes, I am.

16 Q. And in that job you review a lot of paper in
17 your work as a certified public accountant?

18 THE COURT: Do you want to treat him as
19 an adverse witness?

20 MR. HOGAN: Yes, Your Honor, if I may.

21 THE COURT: Do you have any objection?

22 MR. SMITH: No objection.

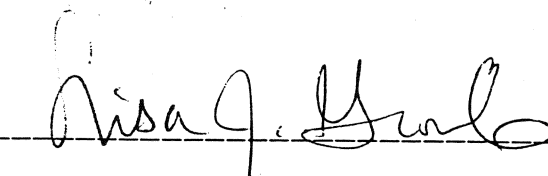
23 THE COURT: I mean you're going to do it
24 anyway, so might as well have the record show it, even
25 though he may not be adverse. You may do so.

CERTIFICATE

STATE OF HAWAII)
) SS.
COUNTY OF HONOLULU)

I, Lisa J. Groulx, Court Reporter, District
of Hawaii, Honolulu, Hawaii, and Notary Public, State
of Hawaii, do hereby certify that the foregoing is a
true and correct transcript of the proceedings in this
Jury Trial, WAYNE BERRY vs. FLEMING COMPANIES, INC.,
ET AL., at Honolulu, Hawaii, taken on Friday, February
28, 2003, before the Honorable SAMUEL P. KING, United
States District Judge.

March 1, 2003



LISA J. GROULX, COURT REPORTER

Notary Public - State of Hawaii

My Commission Expires on: 5/15/06